

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ADAM CHASTEEN,

Plaintiff,

v.

Case No. 2:12-cv-229  
Judge Marbley  
Magistrate Judge King

ROD JOHNSON, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff, a former state prisoner, filed this action on March 15, 2012; the original *Complaint* and the *Amended Complaint*, combined, assert claims against 28 defendants. The action has been marked by plaintiff's repeated attempts to avoid the expense and inconvenience of effecting service of process on each of the defendants. *See, e.g., Motion for Special Service of Process*, Doc. No. 19; *Motion to Amend Complaint*, Doc. No. 29. Plaintiff has been granted a number of extensions of time in which to take all action that would permit the United States Marshals Service to effect service of process, *see, e.g., Order*, Doc. No. 39; *Order*, Doc. No. 52, most recently to November 21, 2012, *Order*, Doc. No. 59. Plaintiff was warned that there would be no further extension of that date and that his failure to demonstrate effective service of process on all remaining defendants would result in the dismissal of his claims against any unserved defendant. *Id.* at 4. The docket reflects that service of process has not been completed on defendants Nurse Jane Doe, Nurse Landon, and Nurse Hoffman. Doc. No. 75. Two other defendants

referred to in the original *Complaint* or *Amended Complaint* only by their work shift and position have also not been served with process. The Ohio Attorney General, making a special appearance on behalf of these persons, has moved to dismiss the claims asserted against them. *State of Ohio's Motion to Dismiss Plaintiff's Complaint Against Captain John Doe (Second Shift) MaCI; Captain John Doe, (Third Shift) MaCI; Nurse Hoffman; Nurse John Doe; and Nurse Landon for Insufficient Service of Process*, Doc. No. 76; *Amended Motion to Dismiss*, Doc. No. 79.

In response, plaintiff asks for yet another extension of time, until February 15, 2013, to effect service of process on the remaining named defendants; he asks that the claims against the remaining Doe defendants remain pending discovery of their identities and subsequent service. *Plaintiff's Motion in Opposition to the State of Ohio's Motion to Dismiss Defendants for Insufficient Service of Process*, Doc. No. 80.

This case has now been pending for more than nine (9) months and service of process has not yet been completed on certain defendants. To grant plaintiff yet another extension would result in continued delay of the proceedings and in undue prejudice to the current parties as well as to parties not yet served with process - and indeed to the Court and the community at large, whose interest in the speedy and expeditious administration of justice has already been compromised by plaintiff's delays in effective service of process.

It is therefore **RECOMMENDED** that the *State of Ohio's Motion to Dismiss Plaintiff's Complaint Against Captain John Doe (Second Shift)*

*MaCI; Captain John Doe, (Third Shift) MaCI; Nurse Hoffman; Nurse John Doe; and Nurse Landon for Insufficient Service of Process, Doc. No. 76 and these defendants' Amended Motion to Dismiss, Doc. No. 79, be GRANTED.*

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

December 21, 2012

s/ Norah McCann King  
Norah McCann King  
United States Magistrate Judge